

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

April 6, 2011

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:35 p.m. in the City Council Conference Room on the 6th day of April, 2011, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham

ABSENT: None

OTHERS PRESENT: Mr. Roger Gallagher, Councilmember-Elect Ward 1  
Mr. Ken Komiske, Director of Utilities  
Mr. Doug Koscinski, Current Planning Manager  
Mr. Steve Lewis, City Manager  
Ms. Leah Messner, Assistant City Attorney  
Ms. Debra Smith, Environmental Services Coordinator  
Mr. Dave Spaulding, Councilmember-Elect Ward 5  
Ms. Kathryn Walker, Assistant City Attorney  
Mr. Scottie Williams, Utilities Superintendent  
Ms. Syndi Runyon, Administrative Assistant IV

### DISCUSSION REGARDING FOLLOW-UP ON THE PROPOSED ORDINANCE REGULATING THE PLACEMENT OF DUMPSTERS ON PROPERTY ZONED INDUSTRIAL, COMMERCIAL, OFFICE, OR MULTI-FAMILY.

Chairman Dillingham said Staff has done a great job in preparing an ordinance for the placement of commercial dumpsters near residential areas.

Ms. Leah Messner, Assistant City Attorney, said the Oversight Committee met in September and October of 2010, and January 2011, regarding an ordinance to regulate dumpster placement on non-residential properties. At the January meeting, the Committee directed Staff to draft amendments to the proposed ordinance that would include a retroactivity clause to bring all dumpsters placed adjacent to single family zones into compliance with the twenty-foot setback proposed in the ordinance. She said retroactivity provisions in statutes have often been looked at critically by the courts. She said there are four primary instances where retroactivity clauses have been forbidden as they contravene constitutional rights: the Ex Post Facto Clause prohibits retroactive application of penal legislation; Article I of the United States Constitution prohibits States from passing laws impairing contracts; the Fifth Amendment's Takings Clause prevents the Legislature (and other government actors) from depriving private persons of vested property rights except for a "public use" and upon payment of just compensation; and Article I of the United States Constitution prohibit legislatures from singling out disfavored persons and meting out summary punishment for past conduct. She said the retroactivity clause in the proposed ordinance would not contravene any of these listed rights as it does not criminalize behavior, impair contracts, deprive persons of property rights, nor does it single out disfavored persons. Chairman Dillingham asked if property should be inspected after six months or on a complaint driven basis. Councilmember Kovach said he preferred a complaint driven basis and the Committee agreed. Chairman Dillingham instructed Staff to bring the ordinance forward to Council for review.

Councilmember Griffith said if someone complains three months after the ordinance is adopted, does that mean they have a three month window to comply and Ms. Messner said they would have six months to comply.

Items submitted for the record

1. Memorandum dated March 29, 2011, from Leah Messner, Assistant City Attorney, through Jeff Bryant, City Attorney, to City Council Oversight Committee, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Draft ordinance

UPDATE TO THE CITY OF NORMAN WATER CONSERVATION PLAN 2011.

Mr. Ken Komiske, Director of Utilities, said Chris Mattingly, Utilities Superintendent, worked on the draft Water Conservation Plan (WCP) and Staff would like Council's input. He reviewed the history of the Norman Water System. He said Resolution No. R-0607-18 adopting the Norman Water Conservation Plan 2006, which includes the Drought Contingency Plan, was adopted on July 25, 2006.

Mr. Komiske said there is a SIP (Simple Irrigation Planning) website that is very informative about watering quantities needed for various types of lawns.

Councilmember Kovach asked if the Plumbing and Landscaping Ordinances required inspections of sprinkler systems installed by contractors and Mr. Komiske said no. He said the ordinances requires low flow fixtures be installed in new construction and all new automatic irrigation systems must have rain sensors and freeze gauges to promote water conservation. Chairman Dillingham asked if other cities were more involved than Norman in regulating household irrigation systems and Mr. Komiske said yes. He said Arizona and New Mexico have rebates for every square foot of turf replaced with rocks. Chairman Dillingham asked if other Cities have criteria or guidelines regarding sprinkler systems such as sprinkler head positions or heights and Mr. Komiske said some of the more arid cities have a rogue water ordinance that states the water cannot leave your property. Councilmember Kovach said that is what he hears the most complaints on. He said it not only cost money, but wastes a resource. He said the problem should be addressed through education and he would also like to see follow-through on violations.

Chairman Dillingham said there is a big "what if" factor and asked how dry it would have to get before the City enacted any type of compliance measure. Mr. Komiske said that would have to be decided and said on windy days it is difficult to control where water is spraying. Councilmember Kovach asked how the City would address a sprinkler system that has been misaligned and water is spraying six inches past the curb into street. Mr. Komiske said language could be placed in the WCP to address these problems. Chairman Dillingham said it would be helpful to have some additional guidance on residential water use versus commercial water use.

Chairman Dillingham asked how the City could get citizens to embrace conservation and Councilmember Kovach suggested working with groups such as the Sierra Club, Kiwanis, Rotary, etc., making presentations on water conservation ideas. Councilmember Kovach said the Sierra Club would make great ambassadors for spreading the word. Chairman Dillingham said she would like to be able to put information in school children's Thursday packets that are taken home to parents. She said children can be very passionate and excited when learning how critical water conservation can be and will become "water police" at home. Councilmember Kovach said water conservation is not a new concept and his parents used to place trash cans underneath the eaves of the house to catch rainwater to water the lawn. He said the City could remind citizens that conservation is an old tradition and give them ideas to work with, such as cisterns. Councilmember Atkins suggested using Twitter as a tool for education. Mr. Steve Lewis, City Manager, said the Utilities Division has placed conservation tips on the monthly utility bills in the past and Mr. Komiske thought this is still done.

Ms. Debra Smith, Environmental Services Coordinator, said the City used to promote "Blue Ribbon Week," which encouraged water conservation and said it could be reintroduced. Chairman Dillingham said it would be wonderful if citizens could be educated to a point that the City did not need to institute any type of mandatory conservation.

Councilmember Kovach said conservation education should also include information on "xeriscaping."

Councilmember Atkins suggested putting a five to ten minute video presentation together and running it on Channel 20. Councilmember Kovach suggested talking to local pastors, whose sermons include stewardship of the land, to pass ideas onto their congregations.

Ms. Smith said the Environmental Control Advisory Board (ECAB) is currently discussing holding workshops to promote the use of rain barrels and want to incorporate conservation information into the workshops. Councilmember Kovach suggested working with the Norman Arts Council to have a contest making clay pots for rain barrels and Chairman Dillingham said they could have a rain barrel painting contest. She said many elementary school classes are planting gardens to give children hands-on knowledge of how food is grown and harvested and felt it would be educational for them to use rain barrels to collect water for the gardens.

The Committee discussed various avenues of education and Councilmember Kovach said the Chamber of Commerce has a Greenovation Committee, which would be a good resource to use for education.

Mr. Komiske said talked about the three stages of a Drought Contingency Plan (DCP). He said goals for use reduction and actions available under Stage 1 would consist of:

- Increase public education on ways to reduce water usage
- Review non-essential City water use and reduce when/where possible
- Reduce City water use for landscape irrigation to every other day or less
- Request voluntary reductions in water use by the public
- Recommend voluntary conservation such as odd/even house number watering; not operating irrigation sprinklers between 9:00 a.m. and 6:00 p.m.; maintain and review irrigation sprinkler operation to repair broken sprinkler head and prevent water of sidewalks and streets; and irrigate landscaping with hand operated hose equipped with a positive shut off nozzle.

Stage 2, Moderate (Mandatory) Conservation could be triggered if:

- The water demand exceeds the Norman Utility Authority's (NUA) supply capacity by greater than 4 million gallons per day (mgd) for two consecutive days and there is no weather related relief in the immediate forecast
- There is a reduction in the long term source of supply from Lake Thunderbird (i.e. supply pumps down, break or extensive damage to raw water line, contamination of water supply)
- A large portion of NUA's water distribution system is out of service due to failure or damage of major water distribution components

Goals for use reduction and actions available under Stage 2 would consist of:

- Continue with water conservation actions and programs provided under Stage 1, unless they are amended or replaced by the restrictions provided in Stage 2.
- Recommend the public, developers and commercial enterprises wait until the current drought or water emergency has passed before establishing new landscaping. New landscaping installed during any drought stage will be subject to all water use restrictions implemented. Financial loss will not constitute justification for a variance.
- Eliminate non-essential City water use (street cleaning, vehicle washing, flushing of water lines, fire hydrant testing, etc.)
- Washing or hosing down of buildings, sidewalks, driveway, patios, porches, parking areas, or any other paved surface is prohibited.
- Washing of cars, trucks, trailers or other vehicles is prohibited, unless these items are taken to a commercial car wash.

- Excessive water run-off from any landscaped areas onto streets, alleys or parking lots or other paved surfaces is prohibited. Water run-off is excessive when it extends for a distance greater than ten feet from the property's boundary liens or ten feet past the targeted irrigation area.
- All outdoor watering or irrigation is prohibited between the hours of 9:00 a.m. and 6:00 p.m.
- Odd/Even water restrictions for irrigation purposes is required for all customers with additional restriction of NO watering on Wednesday and Thursday of each week.

Stage 3, Severe (Mandatory) Conservation could be triggered if:

- City water demand exceeds the NUA's supply capacity by grater than 6 mgd for two consecutive days and there is no weather related relief in the immediate forecast.
- Areas of the water distribution system have reduced water pressures less than 25 per square inch (psi) for 24 hours or more.
- There is a reduction in the long term source of supply from Lake Thunderbird (i.e. supply pumps down, break or extensive damage to raw water line, contamination of water supply).
- A large portion of NUA's water distribution systems is out of service due to failure or damage of jamor water distribution components.

Goals for use reduction and actions available under Stage 3 would consist of:

- All of the water use restrictions implemented under Stage 1 and 2 shall continue in force except as amended or replaced by the restrictions set out in Stage 3.
- Landscape watering is limited to one day per week and only morning or evening watering. Landscape watering would be allowed only on the day the garbage is collected and for commercial and businesses with more than one day per week garbage pickup the schedule would be as follows:

AREA	ALLOWED LANDSCAPE WATER DAY
North Norman	Monday
South Norman	Tuesday
East Norman	Wednesday
West Norman	Thursday
Central Norman	Friday

- Except as otherwise provided, landscape watering is prohibited on weekends.
- Landscape beds may be watered on any day by using a hand operated hose equipped with a positive shut off nozzle. Soaker hoses for foundation maintenance are authorized as necessary. In all instances, run-off is prohibited.
- Watering of City property, medians, parks, and athletic complexes will be allowed once per week following the North, South, East, West, Central schedule and only before 9:00 a.m. or after 6:00 p.m. golf course watering and irrigation using potable water shall be limited to greens and tee boxes only.
- Pools may use water to maintain operational levels. Use of potable water to refill ponds and lakes is prohibited.
- Use of potable water at construction sites for dust control, compaction, or wash-downs is prohibited.

Mr. Komiske said droughts do not happen overnight and just because it rains a couple of days does not mean the drought is over. He said Norman is approximately 12 inches short of rain since October 2010. He said Council had discussed ways to cut costs when voters did not approve a water rate increase and part of that discussion included purchasing water from Oklahoma City (OKC). He said it is an economical disadvantage to enter into a long term contract with OKC. He said it costs approximately \$850,000 to purchase 250 million gallons of water.

He asked if the City should change the amount of water they purchase and, if so, how much water the City should purchase from OKC on an emergency basis. He said that could change the mgd triggers in Stages 1 through 3. Mr. Mattingly said the City budget, \$300,000 to \$400,000 per year and suggested instead of using the money, start thinking about using it only if an emergency and not budget to spend. The Committee suggested changing the mgd's to 3mgd in Stage 2 and 6 mgd in Stage 3. Chairman Dillingham asked if immediate forecast would be seven days and Councilmembers suggested five days with seven maximum.

Councilmember Kovach asked how the splash pads would be affected by the DCP and Mr. Komiske said that needs to be determined because when the DCP was being written, the splash pad was recycling the water used, but due to State regulations, gray water cannot be reused. Councilmember Kovach said splash pads could be addressed with swimming pools that can be maintained, but not filled. Councilmember Atkins suggested reducing the hours of the splash pads in Stage 2 from noon to 7:00 p.m. or slightly cut hours in Stage 1, then cut more hours in Stages 2 and 3. Mr. Komiske felt that would be an excellent wake up call to citizens. Chairman Dillingham said many families and day cares use the facility heavily and for some families that may not have air conditioning; this is the way they keep cool. Chairman Dillingham said she would like feedback from the Parks Department.

Committee members discussed ways to educate the public on the DCP and the economic impact of purchasing water from OKC. Chairman Dillingham said education on the WCP is the perfect time to also talk about the importance of water rights and the difference, in the future, between being a seller or buyer.

Councilmember Kovach said he would like to adopt a resolution stating any landscaping on City properties will be xeriscaped and have a retrofit clause. He felt the City should take the lead in setting an example for what they are asking citizens to follow and understand that attractive landscaping can be done without using extra water. Mr. Komiske said landscaping at the Water Treatment Plant is xeriscaped. He said xeriscaping does not mean you have to use a lot of rocks, just mulch and drought resistant plants native to Oklahoma. Chairman Dillingham said the City is moving in the direction of other communities that are more drought prone or just getting used to not using so much water. She said people are creatures of habit and have not had to think about conservation and it is time to begin. Councilmember Atkins suggested an ordinance requiring native trees with low water tolerance.

Mr. Komiske said Councilmember Atkins had recommended tying drought stages to Lake Thunderbird's lake level. Councilmember Kovach felt it would be a great visual tool and would be beneficial to place a picture of the Lake on the website. He said many people do not go to the Lake and are not aware of how a drought impacts the water level. Mr. Komiske said the City could follow the Central Oklahoma Master Conservancy District's (COMCD) rules regarding City's staying within their allocation when lake levels incrementally drop. He said if the City did that, what level would they choose before the City institutes cutting back on their allocation. Chairman Dillingham felt the City needs to be fairly conservative on setting the level. Councilmember Atkins asked if the COMCD was working on anything to limit allocation if there was a sudden algae bloom or anything or would it affect treatment costs and Mr. Mattingly said no, but taste and odor could be associated with that. Mr. Komiske said in between COMCD and the City recommendation could be five feet to trigger Stage 1 and the Committee agreed.

Chairman Dillingham said the Chamber of Commerce places a "word of the day" in the Transcript and they may be willing to change that to a "conservation tip of the day" during the summer. Councilmember Kovach suggested compiling the history of water use and costs to show citizens how drought affects water use and costs. Councilmember Atkins suggested placing information on the screen at Council meetings for people to watch during breaks. Councilmember Kovach said OU students might be persuaded to produce a water conservation video to play on Channel 20. Chairman Dillingham felt the Committee has a lot of good ideas but felt education needed to be citizen driven such as through the Sierra Club or ECAB.

Mr. Komiske said the WCP is a work in progress and he will make the changes and asked whether the Committee wanted to review the plan at their next scheduled meeting. Chairman Dillingham asked if the Committee wanted to meet again or have changes made and reviewed at a Study Session. Councilmember Kovach said he would like to see suggestions for the education piece and the Committee could hold a special meeting, if needed. Councilmember Atkins suggested changes be e-mailed to the Committee for comments and, once solidified, forward for Council's review within the next 60 days.

Chairman Dillingham said she hoped the plan did not have to be enforced and Councilmember Atkins asked if the plan had a penalty phase. Councilmember Kovach said he thought mandatory rationing had a penalty and Mr. Mattingly said citations had been issued in the 1990's, but not recently.

Items submitted for the record

1. City of Norman Water Conservation Plan 2011
2. Calendar Year OKC Water Purchased and Cost graph
3. Annual Precipitation History with 5-year Tendencies
4. U.S. Drought Monitor dated March 29, 2011

MISCELLANEOUS DISCUSSION.

None

The meeting adjourned at 6:47 p.m.